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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,414	04/05/2001	Hans Josef Rinninger	31530-171041	5027

26694 7590 12/23/2002

VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP  
P.O. BOX 34385  
WASHINGTON, DC 20043-9998

EXAMINER

ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 12/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

09/826,414

Applicant(s)

RINNINGER, HANS JOSEF

Examiner

Raymond W. Addie

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11, 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 8, 11, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Scheiwiller # 5,533,827.

Scheiwiller discloses a paving stone (1) molded from concrete for use in a ground covering. Said paving stone comprising:

A cubical shape (see col. 3, line 28), with planar or tapered side faces, and upper and lower faces (16,10). Said tapered side faces having at least one portion that is rounded, extending toward one side edge of said cube over at least 1/6 of said at least one face. Said faces having rounded off edges over a substantial area extending toward at least one side edge of said cube. See col. 5, lines 25-64.

In regards to Claims 5, 6, 8, 11, 12 Scheiwiller discloses the rounded portion of the paving stones can be uniformly rounded or rounded at an increasing or decreasing rate, such as a clothodial curve. See col. 5, lines 55-64.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheiwiller '827 in view of McClintock # 957,985.

Scheiwiller discloses essentially all that is claimed, except for using each face of said block as an upper face. However, McClintock teaches a cuboidal-paving block (C) that has 6 identical sides, all of which could be used as an upper face and at least one sharp edge. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use the paving stone of Scheiwiller, in a manner such that any of the sides of the block could be used as top paving surface, as taught by McClintock, in order to reduce the cost of production of said blocks. See McClintock col. 1-col. 2; Fig. 4.

3. Claims 3, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheiwiller '827 in view of Scheiwiller # 4,627,764.

Scheiwiller discloses essentially all that is claimed, to include the block cited in Claim 1. Scheiwiller further discloses the blocks can form oblong blocks with planar sides (16), that obviously can be used as a horizontal upper face during laying of said stones.

See fig. 1b, 1c. What Scheiwiller '827 does not disclose is an oblong block having twice the length of the original cuboidal block. However, Scheiwiller '764 teaches it is desirable to use a plurality of different sized paving blocks (5, 10) in a set together. Said 2<sup>nd</sup> block (10) being illustrated in Fig. 6, as being twice the length of the original block (5), or any other length with respect to block (5). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the molded block set of Scheiwiller '827 with a second set of blocks having twice the length of said blocks of said 1<sup>st</sup> set, as taught by Scheiwiller '764, in order to maximize the different patterns that can be formed by the sets of blocks. See Scheiwiller '827 col. 3, lines 28-35, col. 4, lines 6-10; Scheiwiller '764 col. 2.

With respect to Claim 4, Scheiwiller '827 discloses essentially all that is claimed, except for the specific recitation that a second set of molded blocks contains a one-piece block which is square in plan view and with dimensions of four cubes with the size of said 1<sup>st</sup> mentioned cube lying beside one another. However, Scheiwiller '764 clearly teaches "it is clear that the stone may have any other shape, e.g. the configuration of a sector, such as stone 10 in fig. 10 for permitting the stone to be laid down into a circle or to produce stones with greater or shorter lengths".

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the molded set of paving blocks of Scheiwiller '827, with a second set of blocks having greater lengths and widths, as taught by Scheiwiller '764, in order to maximize the different patterns that can be formed. See Scheiwiller '764 col. 2-3.

#### ***Response to Arguments***

4. Applicant's arguments filed 10/15/2002 have been fully considered but they are not persuasive.

The Applicant argues against the rejection of Claims 1, 5, 6, 8, 11, 12 by stating "the Examiner contends that the Scheiwiller patent discloses a paving stone that has a cubical shape...However, there is no basis for the Examiner's contention that the paving stone in Scheiwiller is cubical". However, the Examiner does not concur.

Col. 3, line 12 recites:

"the invention comprises the five cubiodal paving stones 1 to 5.

Col. 3 line 28 states "The cubiodal stones according to Figs. 1 and 2".

Hence, the argument is not persuasive.

Applicant's arguments with respect to claims 1, 7as being unpatentable over Streator in view of Rinninger, have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claims 1, 2, 5-8, 12 as being unpatentable over McClintock in view of Rinninger, have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claims 3, 4 have been considered but are moot in view of the new ground(s) of rejection.

***Response to Amendment***

5. Applicant's amendment to Claim 1, requiring "at least one rounded portion extending toward one side edge of said cube over at least 1/6 of said at least one face"; has overcome the rejections cited in paragraphs 3-6 of the Last Office Action. Accordingly, Applicant's amendment to Claim 1, cited above has necessitated a New Grounds of Rejection, as cited above.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not



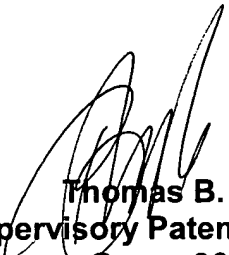
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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Monday-Friday from 8:00 am to 2:00 pm, 6-8 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 305-8623.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

  
**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**

**RWA**  
**12/16/2002**